

RECEIVED  
CENTRAL FAX CENTER  
MAY 24 2007

**REMARKS**

In accordance with the above amendments, claims 1, 18 and 24 have been amended and claims 1-9 and 25-33 stand withdrawn from consideration. Thus, claims 10-24 remain under consideration in this application and no claim has been allowed.

**Claim Rejection - 35 USC § 112**

The rejection of claim 10 under 35 USC § 112, second paragraph, while not understood, is believed overcome by the amendment of that claim.

**Claim Rejection - 35 USC § 103**

Claims 10, 11, 15-19 and 23-24 were rejected under 35 USC § 103(a) as being unpatentable over Sackler (US Publication 2003/0068392 A1) in view of Stanley et al (USPN 6,261,595 B1). This rejection is respectfully traversed.

Sackler '392 deals specifically with oral dosage forms and preventing abuse by those tampering with oral dosage forms of opioid analgesics. The reference is clearly limited to techniques for overcoming tampering with original oral dosages by the use of at least one aversive agent (bittering agent, irritant, gelling agent, etc.) or an opioid antagonist. The reference has nothing to do with transdermal administration or the prevention of abuse in skin-worn transdermal devices for administering opioid analgesics after such devices have been used by a patient. The reference to paragraphs 0078 and 0058 of the

'392 publication also does not seem particularly relevant. The reference clearly does not disclose nor suggest a disposal container as the source of an anti-abuse substance. Note that no tampering is involved in the contact to be made between the abusable and anti-abuse substances when using the device of claims 10-18.

That reference is combined with Stanley et al '595 which involves a transdermal drug delivery system that uses a patch and a heating element, the heating element being disposed in a pouch separated from the administration patch. The pouch has nothing to do with disposal of the skin-worn device and the reference is not in any way related to prevention of abuse from residual amounts of delivered drugs. The fact that a pouch is associated with the transdermal device is clearly unrelated to either the present pouch or its use in the present invention.

In view of the above, it is believed that independent claim 10 distinguishes over the combination of the '392 publication and the '595 patent and claims depending from claim 10 are also believed to distinguish. With respect to claim 18 and claims depending on that claim, they are also seen to distinguish. Note that there is no disclosure or suggestion of the automatic removal of a separator membrane after use of the applied transdermal patch in either of the references.

In this regard, it also appears that the Examiner has

created bridges between the disclosures of the prior art and the present invention to fill gaps between things taught and/or suggested in the prior art and the present invention. For example, the '595 patent nowhere even recognizes the problem solved by the present invention let alone suggesting a totally alternate use for the heater pouch disclosed in that reference. The differences are clearly believed not to be obvious.

The combination of Sackler '392 and Schoendorfer et al (USPN 5,89,856), has been applied to reject claims 12-14 and 20-23. This rejection is also respectfully traversed. The '856 patent is directed to a dermal patch for collecting vapor phase perspiration from a subject's skin and detecting the alcohol content of such perspiration. That reference is cited for including activated charcoal in an absorption pad. In this regard, it should be noted that applicants do not profess to have invented the use of activated charcoal and, as such, it is but one alternative species contained in dependent claims which are believed to depend from patentable claims. It is believed that the '856 reference does not in any manner affect the fundamental patentability of the independent claims and so the dependent claims should also be allowable.

It should be noted that it is the specific approach to solving problems of substance abuse having to do with transdermal patch devices after intended use by a patient to which the

present invention is directed. It is believed that this approach is clearly unique and, in view of the above amendments, taken together with the remarks herein, the Examiner is asked to reconsider his position, withdraw the present rejections and allow all of the claims.

The Examiner is invited to contact the undersigned attorney to discuss any issues that may remain in an effort to expedite prosecution of this application.

Respectfully submitted,

NIKOLAI & MERSEREAU, P.A.



C. G. Mersereau  
Registration No. 26205  
900 Second Avenue So.  
Suite 820  
Minneapolis, MN 55402  
(612) 339-7461

## CERTIFICATE OF FACSIMILE TRANSMISSION

RECEIVED  
CENTRAL FAX CENTER  
MAY 24 2007

I hereby certify that the foregoing Amendment, Transmittal Letter and a Petition for a one-month extension of time in application Serial No. 10/763,628, filed on January 23, 2004, of Carter R. Anderson et al, entitled "ABUSE POTENTIAL REDUCTION IN ABUSABLE SUBSTANCE DOSAGE FORM" are being sent by facsimile transmission to: The Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on May 24, 2007.



Barbara L. Davis  
on behalf of C. G. Mersereau  
Attorney for Applicant

Date of Signature: May 24, 2007